

**ASSEMBLY BILL**

**No. 1655**

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**Introduced by Assembly Member Evans**

January 15, 2010

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An act to add and repeal Sections 369.6 and 739.6 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1655, as introduced, Evans. Dependent children: psychotropic medications.

Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child or a ward who has been removed from the physical custody of his or her parent. Existing law requires court authorization except in an emergency situation, as specified, for the administration of psychotropic medication to be based on a request from a physician, indicating the reasons for the request, a description of the child's or ward's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. Existing law requires the officer to approve or deny the request for authorization to administer psychotropic medication, or set the matter for hearing, as specified, within 7 court days.

This bill would, in a pilot project operative only until January 1, 2014, in 3 counties that are selected by the State Department of Social Services in consultation with the Judicial Council and 2 other specified entities, expand the authority of a juvenile court judicial officer to make orders regarding the administration of psychotropic medications to include a dependent child or ward who has been removed from the physical custody of his or her parent or guardian, or a child who has been

removed from the physical custody of a parent or guardian pending adjudication as a dependent child. The pilot project would require the physician submitting the request for psychotropic medication to have conducted an examination of the child or ward. The pilot project would require the request to indicate additional information, including the child's medical history and a description of any clinically indicated therapy recommended for the child to participate in during the 6-month period until the next court review of the psychotropic medication. The pilot project would require the juvenile court judicial officer, before authorizing the administration of psychotropic medication, to make certain findings, including that the child's or ward's caregiver has been informed, and the child or ward has been informed in an age and developmentally appropriate manner, about the recommended medications, the anticipated benefits, the nature, degree, duration, and probability of side effects and significant risks, and any other recommended treatments, that the child or ward has been informed of the right to request a hearing, and that a plan is in place for regular monitoring of the medication, as specified.

The pilot project would require a dependent child or ward to be present in court for any hearing on the request for authorization to administer psychotropic medication, except as specified. The pilot project would authorize the court to inquire about specified information in any proceeding in the juvenile court following court authorization for the administration of psychotropic medication to a child or ward.

The bill would require the State Department of Social Services, after consultation with the State Department of Mental Health, to report to the Legislature regarding the pilot project before July 1, 2014, as specified.

The bill would require the Judicial Council to adopt rules and forms to implement these provisions on or before July 1, 2011.

These provisions would remain in effect until January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 369.6 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 369.6. (a) Notwithstanding Section 369.5, this section
- 4 establishes a pilot project operative only until January 1, 2014, in

1 three counties. The department shall, in consultation with the  
2 County Welfare Directors Association, the Judicial Council, and  
3 the California Mental Health Directors Association, select the three  
4 counties to participate in the pilot project from among those  
5 counties expressing an interest in participating.

6 (b) If a child is adjudged a dependent child of the court under  
7 Section 300 and the child has been removed from the physical  
8 custody of the parent or guardian under Section 361, or if the child  
9 has been removed from the physical custody of a parent or guardian  
10 pending adjudication pursuant to Section 319, only a juvenile court  
11 judicial officer shall have authority to make orders regarding the  
12 administration of psychotropic medications for that child. The  
13 juvenile court may issue a specific order delegating this authority  
14 to a parent or guardian upon making findings on the record that  
15 the parent or guardian poses no danger to the child and has the  
16 capacity to authorize psychotropic medications. Court authorization  
17 for the administration of psychotropic medication shall be based  
18 on a request from a physician indicating the reasons for the request,  
19 a description of the child's diagnosis and behavior, the child's  
20 medical history, the expected results of the medication, the nature,  
21 degree, duration, and probability of side effects and significant  
22 risks commonly known by the medical profession, and a description  
23 of any clinically indicated therapy recommended for the child to  
24 participate in during the six-month period until the next court  
25 review of psychotropic medication.

26 (c) The physician submitting the request for psychotropic  
27 medication shall have conducted an examination of the child in  
28 compliance with Section 2242 of the Business and Professions  
29 Code.

30 (d) Before authorizing the administration of psychotropic  
31 medication, the juvenile court judicial officer shall make the  
32 following findings:

33 (1) The child's caregiver has been informed, and the child has  
34 been informed in an age and developmentally appropriate manner,  
35 about the recommended medications, the anticipated benefits, the  
36 nature, degree, duration, and probability of side effects and  
37 significant risks commonly known by the medical profession, and  
38 any other recommended treatments, and that the child has been  
39 informed of the right to request a hearing pursuant to subdivision  
40 (h).

1 (2) A plan is in place for regular monitoring of the child's  
2 medication plan, the effectiveness of the medication, and any  
3 potential side effects, by the physician in consultation with the  
4 child's caregiver, mental health care provider, and others who have  
5 contact with the child, as appropriate.

6 (e) If a hearing is conducted pursuant to subdivision (h), the  
7 child shall be present in court for the hearing unless the child  
8 waives the right to attend after consulting with counsel or the court  
9 finds that there is good cause for the child's absence from the  
10 proceedings.

11 (f) In any proceeding in the juvenile court following court  
12 authorization for the administration of psychotropic medication  
13 to a child, the court may inquire about all of the following:

14 (1) As reported by the child's physician or other health care  
15 professional, the effectiveness of the medication and any side  
16 effects experienced by the child, the child's progress toward  
17 meeting the goals outlined in the child's treatment plan and in any  
18 concurrent therapy or other mental health treatment, and, if  
19 applicable, any steps recommended to increase the effectiveness  
20 of the medication, to reduce side effects, or to obviate the need for  
21 continued administration of the medication.

22 (2) Any behavior changes and possible side effects that have  
23 been observed by individuals who have regular contact with the  
24 child.

25 (3) Any statements or concerns expressed by the child regarding  
26 the medication.

27 (g) (1) In counties in which the county child welfare agency  
28 completes the request for authorization for the administration of  
29 psychotropic medication, the agency is encouraged to complete  
30 the request within three business days of receipt from the physician  
31 of the information necessary to fully complete the request.

32 (2) Nothing in this subdivision is intended to change current  
33 local practice or local court rules with respect to the preparation  
34 and submission of requests for authorization for the administration  
35 of psychotropic medication.

36 (h) Within seven court days from receipt by the court of a  
37 completed request, the juvenile court judicial officer shall either  
38 approve or deny in writing a request for authorization for the  
39 administration of psychotropic medication to the child, or shall,

1 upon a request by the parent, the legal guardian, or the child's  
2 attorney, or upon its own motion, set the matter for hearing.

3 (i) Psychotropic medication or psychotropic drugs are those  
4 medications administered for the purpose of affecting the central  
5 nervous system to treat psychiatric disorders or illnesses. These  
6 medications include, but are not limited to, anxiolytic agents,  
7 antidepressants, mood stabilizers, antipsychotic medications,  
8 anti-Parkinson agents, hypnotics, medications for dementia, and  
9 psychostimulants.

10 (j) Consistent with subdivision (d) of Section 369, psychotropic  
11 medications may be administered without court authorization in  
12 an emergency situation. In that situation, court authorization shall  
13 be sought as soon as possible thereafter consistent with the  
14 provisions of this section and related rules of the court developed  
15 pursuant to subdivision (d) of Section 369.

16 (k) Nothing in this section is intended to supersede local court  
17 rules regarding a child's right to participate in mental health  
18 decisions.

19 (l) The Judicial Council shall adopt rules and forms to implement  
20 the provisions of this section on or before July 1, 2011.

21 (m) The department, after consultation with the State  
22 Department of Mental Health, shall report to the Legislature  
23 regarding the findings of the pilot project established pursuant to  
24 this section before July 1, 2014. The report shall include  
25 demographic data on foster youth and probation youth prescribed  
26 psychotropic medications pursuant to the pilot project and data on  
27 mental health outcome measures for these youth. The report shall  
28 include input from stakeholders about reportable outcomes. Each  
29 pilot county and the courts in the county may develop outcome  
30 measures based on the available data and data that is feasible to  
31 measure given the information system used by that county and its  
32 courts. The data shall be collected to the extent possible using  
33 existing resources or private funding sources.

34 (n) This section shall remain in effect only until January 1, 2015,  
35 and as of that date is repealed, unless a later enacted statute, that  
36 is enacted before January 1, 2015, deletes or extends that date.

37 SEC. 2. Section 739.6 is added to the Welfare and Institutions  
38 Code, to read:

39 739.6. (a) Notwithstanding Section 739.5, this section  
40 establishes a pilot project operative only until January 1, 2014, in

1 three counties. The department shall, in consultation with the  
2 County Welfare Directors Association, the Judicial Council, and  
3 the California Mental Health Directors Association, select the three  
4 counties to participate in the pilot project from among those  
5 counties expressing an interest in participating.

6 (b) If a minor who has been adjudged a ward of the court under  
7 Section 601 or 602 is removed from the physical custody of the  
8 parent or guardian under Section 726 and placed into foster care,  
9 as defined in Section 727.4, only a juvenile court judicial officer  
10 shall have authority to make orders regarding the administration  
11 of psychotropic medications for that minor. The juvenile court  
12 may issue a specific order delegating this authority to a parent or  
13 guardian upon making findings on the record that the parent or  
14 guardian poses no danger to the minor and has the capacity to  
15 authorize psychotropic medications. Court authorization for the  
16 administration of psychotropic medication shall be based on a  
17 request from a physician, indicating the reasons for the request, a  
18 description of the minor's diagnosis and behavior, the minor's  
19 medical history, the expected results of the medication, the nature,  
20 degree, duration, and probability of side effects and significant  
21 risks commonly known by the medical profession, and a description  
22 of any clinically indicated therapy recommended for the minor to  
23 participate in during the six-month period until the next court  
24 review of psychotropic medication.

25 (c) The physician submitting the request for psychotropic  
26 medication shall have conducted an examination of the minor in  
27 compliance with Section 2242 of the Business and Professions  
28 Code.

29 (d) Before authorizing the administration of psychotropic  
30 medication, the juvenile court judicial officer shall make the  
31 following findings:

32 (1) The minor's caregiver has been informed, and the minor has  
33 been informed in an age and developmentally appropriate manner,  
34 about the recommended medications, the anticipated benefits, the  
35 nature, degree, duration, and probability of side effects and  
36 significant risks commonly known by the medical profession, and  
37 any other recommended treatments, and that the minor has been  
38 informed of the right to request a hearing pursuant to subdivision  
39 (h).

1 (2) A plan is in place for regular monitoring of the minor's  
2 medication plan, the effectiveness of the medication, and any  
3 potential side effects, by the physician or in consultation with the  
4 minor's caregiver, mental health care providers, and others who  
5 have contact with the minor, as appropriate.

6 (e) If a hearing is conducted pursuant to subdivision (h), the  
7 minor shall be present in a court for the hearing unless the minor  
8 waives the right to attend after consulting with counsel or the court  
9 finds that there is good cause for the minor's absence from the  
10 proceedings.

11 (f) In any proceeding in the juvenile court following court  
12 authorization for the administration of psychotropic medication  
13 to a minor, the court may inquire about all of the following:

14 (1) As reported by the minor's physician, the effectiveness of  
15 the medication and any side effects experienced by the minor, the  
16 minor's progress toward meeting the goals outlined in the minor's  
17 treatment plan and in any concurrent therapy or other mental health  
18 treatment, and, if applicable, any steps recommended to increase  
19 the effectiveness of the medication, to reduce side effects, or to  
20 obviate the need for continued administration of the medication.

21 (2) Any behavior changes and possible side effects that have  
22 been observed by individuals who have regular contact with the  
23 minor.

24 (3) Any statements or concerns expressed by the minor regarding  
25 the medication.

26 (g) (1) The agency that completes the request for authorization  
27 for the administration of psychotropic medication is encouraged  
28 to complete the request within three business days of receipt from  
29 the physician of the information necessary to fully complete the  
30 request.

31 (2) Nothing in this subdivision is intended to change current  
32 local practice or local court rules with respect to the preparation  
33 and submission of requests for authorization for the administration  
34 of psychotropic medication.

35 (h) Within seven court days from receipt by the court of a  
36 completed request, the juvenile court judicial officer shall either  
37 approve or deny in writing a request for authorization for the  
38 administration of psychotropic medication to the minor, or shall,  
39 upon a request by the parent, the legal guardian, or the minor's  
40 attorney, or upon its own motion, set the matter for hearing.

1 (i) Psychotropic medication or psychotropic drugs are those  
2 medications administered for the purpose of affecting the central  
3 nervous system to treat psychiatric disorders or illnesses. These  
4 medications include, but are not limited to, anxiolytic agents,  
5 antidepressants, mood stabilizers, antipsychotic medications,  
6 anti-Parkinson agents, hypnotics, medications for dementia, and  
7 psychostimulants.

8 (j) Consistent with subdivision (d) of Section 739, psychotropic  
9 medications may be administered without court authorization in  
10 an emergency situation. In that situation, court authorization shall  
11 be sought as soon as possible thereafter consistent with the  
12 provisions of this section and related rules of the court developed  
13 pursuant to subdivision (d) of Section 739.

14 (k) Nothing in this section is intended to supersede local court  
15 rules regarding a minor's right to participate in mental health  
16 decisions.

17 (l) The Judicial Council shall adopt rules and forms to implement  
18 the provisions of this section on or before July 1, 2011.

19 (m) The department shall, after consultation with the State  
20 Department of Mental Health, report to the Legislature regarding  
21 the findings of the pilot project established pursuant to this section  
22 before July 1, 2014. The report shall include demographic data on  
23 foster youth and probation youth prescribed psychotropic  
24 medications pursuant to the pilot project and data on mental health  
25 outcome measures for these youth. The report shall include input  
26 from stakeholders about reportable outcomes. Each pilot county  
27 and the courts in the county may develop outcome measures based  
28 on the available data and data that is feasible to measure given the  
29 information system used by that county and its courts. The data  
30 shall be collected to the extent possible using existing resources  
31 or private funding sources.

32 (n) This section shall remain in effect only until January 1, 2015,  
33 and as of that date is repealed, unless a later enacted statute, that  
34 is enacted before January 1, 2015, deletes or extends that date.